

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

SEPTEMBER 26, 2005

The Marlboro Township Council held a special meeting on September 26, 2005 at 7:30 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Pernice opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this special meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on September 23, 2005; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman Cantor, Councilman Denkensohn, Council Vice President Morelli and Council President Pernice. Councilman Mione was absent.

Also present were: Mayor Robert Kleinberg, Andy Bayer, Esq., Township Planner Jennifer Beahm, and Municipal Clerk Alida DeGaeta.

At 7:35PM, Councilman Denkensohn moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Council Vice President Morelli, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Mione).

RESOLUTION # 2005-409

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 26th day of September, 2005 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 2 hours. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action will be taken following the executive session.

At 9:35 PM, Council President Pernice moved that the meeting be opened. This was seconded by Councilman Cantor, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Mione).

The following Resolution #2005-321 (Authorizing Agreement Bluh & Batelli) was introduced by reference, offered by Council Vice President Morelli, seconded by Council President Pernice, and passed on a roll call vote of 3 - 1 in favor, with Councilman Denkensohn voting no (Absent: Mione)

RESOLUTION # 2005-321

RESOLUTION AUTHORIZING THE EXECUTION OF A SETTLEMENT
AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO
AND ALFRED BLUH AND JOSEPH BATELLI,

WHEREAS, pursuant to Resolution #2004-225, the Township Council of the Township of Marlboro approved the July 2004 Housing Plan Element and Fair Share Plan (collectively referred to as the "Affordable Housing Plan") for the Township of Marlboro; and

WHEREAS, the Township of Marlboro then petitioned the Council on Affordable Housing ("COAH") for substantive certification and requested that COAH review and certify the Affordable Housing Plan; and

WHEREAS, in accordance with N.J.A.C. 5:91-4.1, Alfred Bluh and Joseph Batelli ("Bluh and Batelli") filed an objection with COAH to the Affordable Housing Plan; and

WHEREAS, Bluh and Batelli's objection evidenced that they are the owner of Block 150, Lots 2, 3, 4 and 9 and Block 148 Lot 31 and Block 149, Lot 16 (collectively, the "Property") in the Township of Marlboro and that the Property was previously included in the Township's Affordable Housing Plan and at that time they were slated to construct 210 market rate units and 68 affordable housing units,

but in 1998, the Township removed Bluh and Batelli from its affordable housing plan;

WHEREAS, as a result of the Township's removal of Bluh and Batelli from its affordable housing plan, Bluh and Batelli also initiated litigation against the Township in the Superior Court of New Jersey-Law Division; and

WHEREAS, in response to Bluh and Batelli's objection with COAH, the Township of Marlboro and Bluh and Batelli engaged in mediation and good faith negotiations as required by N.J.A.C. 5:91-7.1, et seq.; and

WHEREAS, as a result of the mediation process, Bluh and Batelli and the Township reached a proposed settlement which will allow for Bluh and Batelli to construct on the Property, 200 market rate age-restricted units and 50 affordable family rental units and Bluh and Batelli further agreed to fund 65 RCAs at an amount to be determined and approved by COAH; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to agree to settle Bluh and Batelli's objection to promote the public policy of providing affordable housing within the municipality's borders and to satisfy the Township's affordable housing obligation in furtherance of obtaining substantive certification from COAH and to prevent builder's remedy litigations against the Township.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that the Township Attorney is authorized to enter into a Settlement Agreement between the Township and Bluh and Batelli to reflect the following terms and conditions: (1) The Township will amend its Affordable Housing Plan to include the Property developed with 200 age-restricted market rate units, 50 affordable family rental units and the funding of 65 RCAs at an amount to be determined and approved by COAH; (2) the Township will agree to introduce zoning ordinances to allow for those uses and bulk and density requirements necessary to implement the aforementioned development of the Property; (3) and any other necessary terms and conditions to implement the Settlement as approved by the Township Attorney and/or required by COAH; and

BE IT FURTHER RESOLVED that the Township Clerk is hereby authorized and directed to send copies of this resolution to the following:

1. Council on Affordable Housing
2. Alfred Bluh and Joseph Batelli
3. Business Administrator
4. Gluck Walrath, LLP.

At 10:25PM, Councilman Denkensohn moved that the meeting be adjourned. This was seconded by Council Vice President Morelli, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Mione).

MINUTES APPROVED: November 3, 2005

OFFERED BY: Pernice

AYES: 4

SECONDED BY: Denkensohn

NAYS: 0

ABSTAIN: Mione

ALIDA DE GAETA
MUNICIPAL CLERK

JOSEPH PERNICE
COUNCIL PRESIDENT